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SUBDIVISION REVIEW SHEET

CASE NO.: C8-2012-0094.0A

Z.A.P. DATE: November 20, 2012
November 6, 2012

SUBDIVISION NAME: Creekside Homes

AREA: 8.071 acres

LOTS: 2

OWNER/APPLICANT: Creekside Homes, LP
(Ryan Diependbrock)

AGENT: Perales Engineering LLC
(Jerry Perales)

ADDRESS OF SUBDIVISION: 5616 South 1st Street

GRIDS: G-17

COUNTY: Travis

WATERSHED: Williamson Creek

JURISDICTION: Full Purpose

EXISTING ZONING: GR-CO & SF-6-CO

PROPOSED LAND USE: Single Family and Public

VARIANCE REQUEST: From 25-4-151 (LDC) which requires a new subdivision connect to adjacent roadways. Recommended. (See attached Revised Memo dated November 14, 2012).

SIDEWALKS: Sidewalks are required along South 1st Street prior to the lot(s) being occupied.

DEPARTMENT COMMENTS: The request is for approval of the replat, namely Creekside Homes; along with variance listed above. The proposed replat is composed of 2 lots on 8.071 acres.

Brief background:

The land included in this replat was initially subdivided under the subdivision – Fairview Baptist Subdivision, Section Two (Vol. 93, P. 365). Under that subdivision, Fairview Baptist Subdivision (Vol 93, P. 365) – restrictions were created to prohibit access to the adjacent Leisure Run Road and Cynthia Drive.

It was then resubdivided under Turtle Creek Commercial Subdivision, A Resubdivision of Lot 1, Fairview Baptist Subdivision Section Two (Document # 20090022). This resubdivision continued the plat restrictions as prescribed by Local Government Code requirements of replatting without vacating a preceeding plat.

This land area was included in a previous rezoning case, C14-03-0099 (Ordinance No. 031030-Z-6) which had a Private Restrictive Covenant that established the restriction for pedestrian access from this site to Leisure Run Road.

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The more recent rezoning, C14-2011-0066, case is rezoning this tract of land to SF-6-CO limiting the site to a maximum of 45 residential units and that only Emergency, Pedestrian and Bike access be allowed from this site onto Leisure Run Road. City Council approved this on first reading (See attached Exhibit A).

There will still be no access to Cynthia Drive as this is not existing public R.O.W.

STAFF RECOMMENDATION: With the approval of the variance listed above, staff recommends approval of this replat. This plat will meet all applicable City of Austin Land Development and State Local Government requirements.

ZONING AND PLATTING COMMISSION ACTION: 11/6/12: Continued to the 11/20/12 meeting. (6-0)

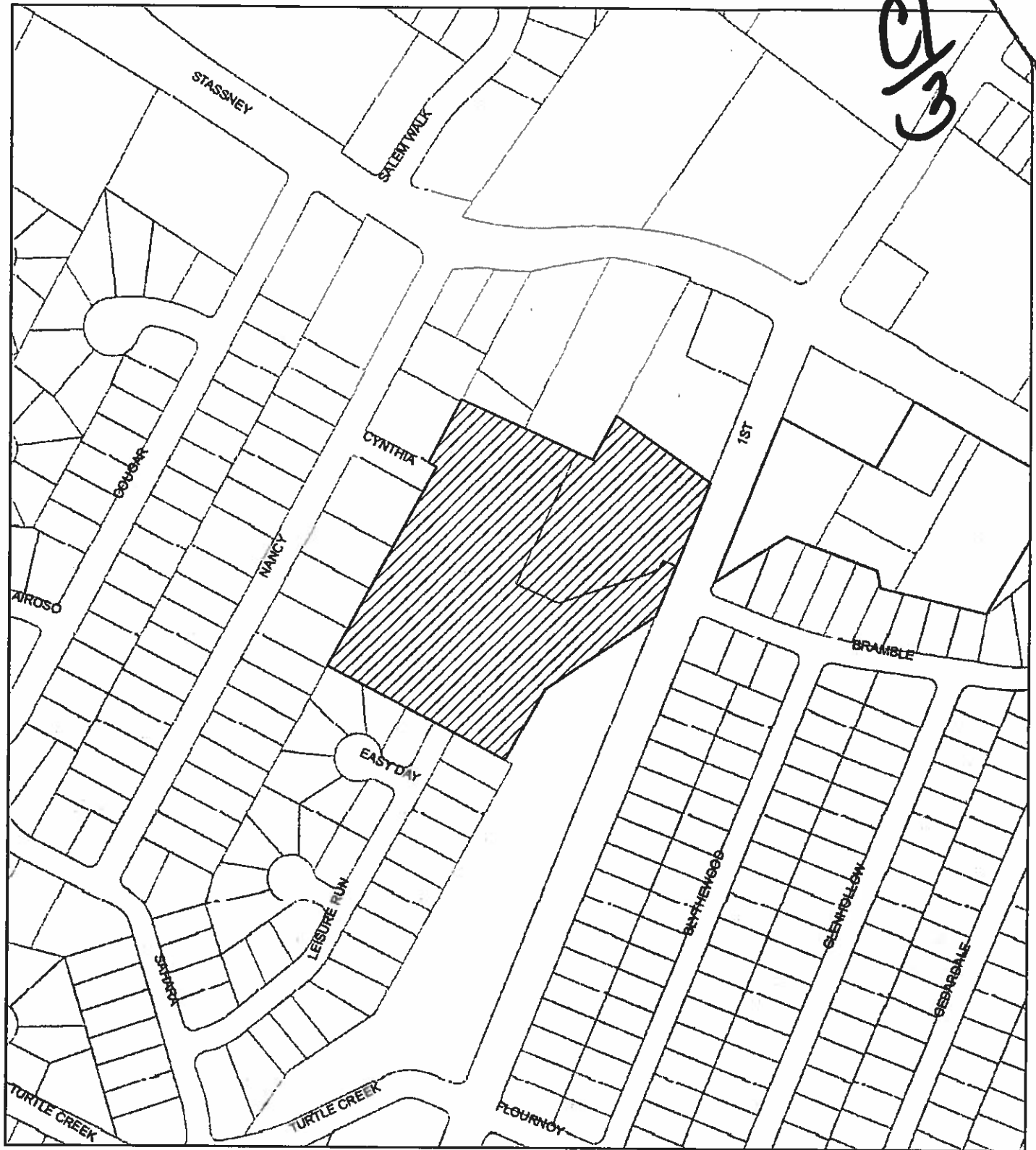
CASE MANAGER: Sylvia Limon
Email address: sylvia.limon@austintexas.gov



PHONE: 974-2767

Transportation Reviewer: Shilpa Bhadsavle
Email address: Shilpa.bhadsavle@austintexas.gov

Phone: 974-6421

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-  Subject Tract
-  Base Map

CASE#: C8-2012-0094.0A
LOCATION: 5616 S. 1st Street



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



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MEMORANDUM

TO: Sylvia Limon, Case Manager
Members of the Zoning and Planning Commission

DATE: November 14, 2012 – (Revised)

SUBJECT: Variance Request for 'The Creekside Homes' Replat
Case Number – C8-2012-0094.0A

Recommendation: To approve the variance

The applicant for the above referenced replat is requesting a variance to Title 25 of the Land Development Code (LDC) Section 25-4-151, which requires streets of a new subdivision to be in line with existing streets on adjoining property. The variance is for Cynthia DR and Leisure Run RD.

The site is located within the City of Austin's full purpose jurisdiction south of the intersection of Stassney LN and S 1ST ST. Cynthia DR and Leisure Run RD terminate at the proposed boundary of the Creekside Homes Replat subdivision. On south side, adjoining Turtle Creek Estates Sec 1 has existing Leisure Run RD that terminates at the boundary. Also from the adjoining north side (Windswept Acres Sec 2), Cynthia DR terminates at the boundary of this subdivision. Cynthia DR has not been constructed yet.

Staff recommends approval of the variance with condition for the following reasons:

- The development is proposing a condominium complex with 40 detached homes having internal driveways and one proposed access from S 1ST ST, a minor arterial. Not extending Cynthia DR will not land lock any existing subdivisions because the subdivision to the north has independent access to Stassney LN and to Turtle Creek BLVD.
- Cynthia DR was never constructed and there are old trees at location which will need to be removed. In addition, as a result of neighborhood's concerns, Traffic Impact Analysis (TIA) recommendations made previously on this parcel with the approved zoning case (C14-03-0099) prohibit vehicular access to Cynthia DR and Leisure Run RD.
- With approved zoning case (C14-03-0099), a private restrictive covenant was created as an agreement between the neighborhood and the owner of this property. It requests pedestrian walkway access to Leisure Run RD. Pedestrian access via this development to S 1st ST and transit stops would create a better connectivity option.
- The shape of the parcel frontage does not allow for sufficient geometric design of a local street that will connect to Leisure Run RD by dedication of ROW. Also, there is an existing 100 YR floodplain at this location where ROW cannot be dedicated. In addition, with existing trees at this location, only a driveway layout is possible.
- With the site plan application, the internal driveways and pavements have been designed for fire truck maneuverability. In addition, Leisure Run RD has Easy Day CV cul-de-sac at the boundary of this parcel, which can be used for fire truck turnaround and secondary access to this property.

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Staff recommends approval of the variance based on following condition:

- Only emergency vehicular access from the property to Leisure Run RD is permitted. Bicycle and pedestrian access to Leisure Run RD is required.

If you have any further questions or require additional information, please contact me at 974-6421.

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Shilpa Bhadsavle
Transportation Review Staff



PERALES ENGINEERING, LLC
Land Development and Environmental Consulting

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October 18, 2012

Greg Guernsey,
Director Planning and Development Review Department
505 Barton Springs Rd.
Austin TX, 78703

RE: Transportation Variance Request (C8-2012-0094.0A)

Dear Mr. Guernsey:

Please accept this letter as our formal request for a variance from the requirements to connect to the existing Right -Of-Way adjacent to our site according to City of Austin Land Development Code Section 25-4-151. According to the previously approved plat (case number: C8-94-0021.0A) the connections to Leisure Run road and Cynthia Drive are restricted. The site is located at 5616 S. 1st Street, Austin Travis County Texas.

If you would like to discuss further or need additional information, please don't hesitate to contact our office.

Sincerely,

A stylized, handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Jerry Perales, PE
President

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

Commission is required to approve the subdivision by State law if no variances are required, and if it meets all requirements. A board or commission's decision on a subdivision may only be appealed if it involves an environmental variance. A variance may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (it may be delivered to the contact person listed on a notice); or
- appearing and speaking for the record at the public hearing;

- and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 14 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.ci.austin.tx.us/development.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C8-2012-0094.0A

Contact: Sylvia Limon, 512-974-2767 or Cindy Casillas, 512-974-3437
Public Hearing: Zoning and Platting Commission, Nov 6, 2012

BEIN HOUSER

Your Name (please print)

5915 LEISURE RUN RD.

Your address(es) affected by this application

Chen Houser

Signature

Nov. 2, 2012

Date

Daytime Telephone: 512-946-2314

Comments:

DO NOT ALLOW ACCESS TO
LEISURE RUN RD. DO
NOT JOIN DEVELOPMENT
TO EXISTING NEIGHBORHOOD.

If you use this form to comment, it may be returned to:

City of Austin - Planning & Development Review Dept./4th Floor
Sylvia Limon
P. O. Box 1088
Austin, TX 78767-8810

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Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C8-2012-0094.0A
Contact: Sylvia Limon, 512-974-2767 or Cindy Casillas, 512-974-3437
Public Hearing: Zoning and Platting Commission, Nov 6, 2012

TIMOTHY W. SULLIVAN
Your Name (please print)

☒ I am in favor
☐ I object

5705 NANCY DR. AUSTIN, TX 78745
Your address(es) affected by this application

Timothy W. Sullivan
Signature

11/6/12
Date

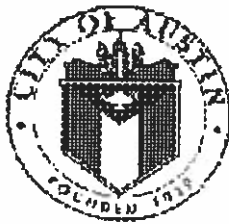
Daytime Telephone: (512) 294-3812

Comments: _____

If you use this form to comment, it may be returned to:
City of Austin – Planning & Development Review Dept./4th Floor
Sylvia Limon
P. O. Box 1088
Austin, TX 78767-8810

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AUSTIN CITY COUNCIL
MINUTES

REGULAR MEETING
THURSDAY, OCTOBER 20, 2011

Invocation: Pastor Randall Wyles, South Austin Church of the Nazarene

The following represents the actions taken by the Austin City Council in the order they occurred during the meeting. While the minutes are not in sequential order, all agenda items were discussed. The City Council of Austin, Texas, convened in a regular meeting on Thursday, October 20, 2011 in the Council Chambers of City Hall, 301 West Second Street, Austin, Texas.

Mayor Leffingwell called the Council Meeting to order at 10:08 a.m.

Mayor Pro Tem Cole was absent from the Council Meeting.

CONSENT AGENDA

1. Approve the minutes of the Austin City Council work session of October 4, 2011 and special called meeting of October 7, 2011.
The minutes from the work session of October 4, 2011 and special called meeting of October 7, 2011 were approved on consent on Council Member Spelman's motion, Council Member Martinez' second on a 6-0 vote. Mayor Pro Tem Cole was absent.
2. Authorize the execution of an amendment to the Cost Reimbursement Agreement with NORTH I-35 BUSINESS PARK, L.P. to increase the amount of the City's cost reimbursement for construction costs to a total amount not to exceed \$326,000.
The motion authorizing the execution of an amendment to the cost reimbursement agreement with North I-35 Business Park, L.P. was approved on consent on Council Member Spelman's motion, Council Member Martinez' second on a 6-0 vote. Mayor Pro Tem Cole was absent.

Item 3 was pulled for discussion.

Item 4 was pulled to be heard after related item 84.

5. Authorize execution of a construction contract with CENTRAL ROAD AND UTILITY, LTD (MBE/MH 69.72%), AUSTIN, TX, for the Miscellaneous Water Rehab Project 2009-2010 Phase 2 in the amount of \$1,694,035.50 plus a \$169,400 contingency, for a total contract amount not to exceed \$1,863,435.50.
The motion authorizing the execution of a construction contract with Central Road and Utility, LTD was approved on consent on Council Member Spelman's motion, Council Member Martinez' second on a 6-0 vote. Mayor Pro Tem Cole was absent.

Watershed; Colorado River Watershed) from family residence (SF-3) district zoning to multi-family residence-limited density-conditional overlay (MF-1-CO) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence (SF-6-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant multi-family residence-limited density-conditional overlay (MF-1-CO) combining district zoning. Owner/Applicant: Artie Osborn. Agent: Rock Ridge Consulting (Jim Herbert). City Staff: Wendy Rhoades, 974-7719.

The public hearing was conducted and the motion to close the public hearing and adopt Ordinance No. 20111020-082 for multi-family residence-limited density-conditional overlay (MF-1-CO) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Martinez' second on a 6-0 vote. Mayor Pro Tem Cole was absent.

83. C14-2011-0103 - IBC Mueller View - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1206, 1208, 1210, 1212, 1216 and 1218 East 51st Street (Tannehill Creek Watershed) from community commercial-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (GR-MU-V-CO-NP) combining district zoning to community commercial-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (GR-MU-V-CO-NP) combining district zoning, to change a condition of zoning. Staff Recommendation: Recommendation pending. Planning Commission Recommendation: To be reviewed on October 25, 2011. Owner/Applicant: Tommie Bernal; Gary & Doyle Valdez; Larry Bartling, Thomas McDonald; Mueller View, L.P.; Austin Gay and Lesbian International Film Festival. Agent: Graves, Dougherty, Hearon & Moody, P.C. (Peter Cesaro). City Staff: Clark Patterson, 974-7691.
- This item was postponed on consent to December 8, 2011 at the staff's request on Council Member Spelman's motion, Council Member Martinez' second on a 6-0 vote. Mayor Pro Tem Cole was absent.**

ZONING DISCUSSION ITEM

79. C14-2011-0066 - Creekside - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 5616 South 1st Street (Williamson Creek Watershed) from community commercial-conditional overlay (GR-CO) combining district zoning to townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning with conditions. Zoning and Platting Commission Recommendation: To grant townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning with conditions. Owner/Applicant: Equilibrium Development (Brad Schubert). Agent: PSW Homes (Ryan Diepenbrock). City Staff: Wendy Rhoades, 974-7719.

The public hearing was conducted and a motion was made by Council Member Spelman and seconded by Council Member Morrison to close the public hearing and adopt the first reading of the ordinance for townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning with conditions. Direction was given to staff to provide emergency, bike and pedestrian access to Leisure Run Road.

A substitute motion was made by Council Member Riley and seconded by Council Member Martinez to close the public hearing and adopt the first reading of the ordinance for townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning with conditions and allowing full access to Leisure Run Road. This motion failed on a vote of 2-4. Those voting aye were: Council Members Martinez and Riley. Those voting nay were: Mayor Leffingwell and Council Members Morrison, Spelman and Tovo. Mayor Pro Tem Cole was absent.

The public hearing was conducted and the motion to close the public hearing and adopt the first reading of the ordinance for townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning with conditions was approved on Council Member Spelman's motion,

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Council Member Morrison's second on a 6-0 vote. Mayor Pro Tem Cole was absent. Direction was given to staff to provide emergency, bike and pedestrian access to Leisure Run Road.

DISCUSSION ITEMS CONTINUED

14. Approve a resolution authorizing negotiation and execution of state legislative representative services contracts for a total combined amount not to exceed \$678,028. Recommended by the Electric Utility Commission.
Resolution No. 20111020-014 was approved on Council Member Spelman's motion, Council Member Martinez' second on a 6-0 vote. Mayor Pro Tem Cole was absent.
15. Approve a resolution confirming the re-appointment of Herbert Martinez to the Firefighters' and Police Officers' Civil Service Commission for a term expiring November 1, 2014.
Resolution No. 20111020-015 was approved on Council Member Martinez' motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem Cole was absent.
18. Authorize an additional two-month extension to the existing agreement with the Urban Renewal Agency of the City of Austin relating to roles, responsibilities and processes for the redevelopment of the East 11th and 12th Street Revitalization Project.
The motion authorizing an additional extension to the existing agreement with the Urban Renewal Agency of the City of Austin was approved on Council Member Martinez' motion, Council Member Riley's second on a 5-0 vote. Mayor Pro Tem Cole was absent. Council Member Spelman recused himself.
23. Approve an ordinance vacating a 0.0996 acre tract located northwest of and adjacent to 3500 Crawford Avenue, Austin, Texas, between West 35th Street and West 35th Street Cutoff, and consisting of a portion of lots 3, 4, 5 and 6, Block 18, Glenridge Subdivision, recorded in Book 1, Page 65 of the Plat Records of Travis County, Texas.
Ordinance No. 20111020-023 was approved on Council Member Riley's motion, Mayor Leffingwell's second on a 6-0 vote. Mayor Pro Tem Cole was absent.
25. Approve an ordinance amending the City Code to add a new Article 7 to Chapter 8-1 to authorize the City Manager and the director of the Parks and Recreation Department to issue burn ban orders for city parks and nature preserves; creating an offense and imposing a penalty, and declaring an emergency.
Ordinance No. 20111020-025 was approved on Council Member Martinez' motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem Cole was absent.
51. Approve an ordinance amending Chapter 2-7, Article 6 of the City Code relating to anti-lobbying and procurement.
The first reading of the ordinance was approved on Council Member Morrison's motion, Council Member Martinez' second on a 6-0 vote. Mayor Pro Tem Cole was absent. Direction was given to staff to take to the Ethics Commission and bring back to Council with any recommended changes.
53. Approve second/third readings of an ordinance amending City Code Chapter 13-2, Article 2, Division 2, to add a new Subpart G establishing regulations for the operation of electric low-speed vehicles for hire, and providing for criminal penalties (Notes: SPONSOR: Council Member Chris Riley CO 1: Council Member Mike Martinez CO 2: Council Member Kathie Tovo)
Ordinance No. 20111020-053 was approved on Council Member Martinez' motion, Council Member Morrison's second on a 5-1 vote. Mayor Leffingwell voted nay. Mayor Pro Tem Cole was absent. The friendly amendment from Council Member Riley was to delete section 13-2-289(B) and renumber subsection (C) to (B) in section 13-2-289 in the ordinance. The amendment was accepted by the maker of the motion and by Council Member Morrison who made the second.

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ZONING CHANGE REVIEW SHEET

CASE: C14-2011-0066 – Creekside

Z.A.P. DATE: August 2, 2011
August 16, 2011
September 20, 2011

ADDRESS: 5616 South 1st Street

OWNER: Equilibrium Development
(Brad Schubert)

AGENT: PSW Homes
(Ryan Diepenbrock)

ZONING FROM: GR-CO

TO: SF-6-CO

AREA: 5.922 acres

SUMMARY STAFF RECOMMENDATION:

The Staff recommendation is to grant townhouse and condominium – conditional overlay (SF-6-CO) combining district zoning. The Conditional Overlay limits development of the property to 45 units and establishes that a building may not contain more than one unit.

ZONING & PLATTING COMMISSION RECOMMENDATION:

August 2, 2011: *PUBLIC HEARING CLOSED; CONTINUED TO AUGUST 16, 2011*
[S. BALDRIDGE; D. TIEMANN – 2ND] (6-0) C. BANKS – ABSENT

August 16, 2011: *PUBLIC HEARING WAS RE-OPENED; APPROVED A POSTPONEMENT TO SEPTEMBER 20, 2011 BY ZAP WITH DIRECTION TO STAFF TO RETURN WITH RECOMMENDATIONS ABOUT HOW TO ACCOMPLISH THE MOST EFFICIENT, ALTERNATE ACCESS POINT FOR THE 45 TOWNHOME UNITS AND EMERGENCY VEHICLES, TO INCLUDE LEISURE RUN ROAD AND CYNTHIA DRIVE*
[S. BALDRIDGE; D. TIEMANN – 2ND] (6-0) G. ROJAS – ABSENT; 1 VACANCY ON THE COMMISSION

September 20, 2011: *TO GRANT SF-6-CO DISTRICT ZONING AS STAFF RECOMMENDED WITH THE ADDITIONAL CONDITION THAT FULL ACCESS TO LEISURE RUN ROAD OR CYNTHIA DRIVE IS REQUIRED.*
[G. BOURGEOIS; B. BAKER – 2ND] (5-0) P. SEEGER – NAY; 1 VACANCY ON THE COMMISSION

NOTE: *PLATS MUST BE RECORDED PRIOR TO 3RD READING OF THE ZONING CASE AT CITY COUNCIL.*

ISSUES:

After the Zoning and Platting Commission hearing, Staff met with the Agent to discuss two options regarding a connection to Leisure Run Road. The first option is to create a SF-3 zoning tract along the south property line that is 25 feet wide (Tract 2). This would allow for unrestricted (full) vehicular access to occur without triggering compatibility standards. The remainder of the tract (Tract 1) would be zoned SF-6-CO as Staff recommended. The second

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option is to provide pervious paving material at the connection with Leisure Run Road for emergency access. A pervious paving surface would meet Fire Department criteria for access and would not trigger the need for a compatibility standard waiver. In contrast, impervious cover connecting Leisure Run Road and the subject property would trigger a compatibility standard waiver through the Board of Adjustment.

Correspondence from the Applicant regarding the 1994 plat notes that prohibit access to Cynthia Drive and Leisure Run Road, and residential use is provided at the very back of the packet.

Following the August 16th Zoning and Platting Commission meeting, Staff met with the Applicant's representatives and identified additional site development issues that would need to be resolved in order to accommodate townhouses. These include subdivision issues, an update to the Traffic Impact Analysis and a variance to compatibility standards through the Board of Adjustment, and are summarized below. Staff recommends that the subdivision issues described below be resolved prior to moving forward with SF-6 zoning.

Subdivision issues: The original subdivision is known as Fairview Baptist Subdivision Section Two, composed of two lots and was recorded on October 4, 1994 (C8-94-0021.0A). Please refer to Exhibit B-1. Lot 1 contained the Fairview Baptist Church and the subject rezoning area. Lot 2 includes the Walgreens building at the intersection of West Stassney Lane and South 1st Street. (A separate plat includes a portion of the Walgreens parking lot at the hard corner of that intersection and does not need to be changed.) The 1994 plat includes two notes that relate to the development of the rezoning area. Note #5 states that, "Development of all lots in this subdivision is hereby restricted to uses other than residential." The purpose of this note is for the property owner to state their intent for either residential or non-residential development of the lot. If the lot is intended to be platted for residential purposes, then park land fees are paid prior to plat recordation. If the lot is intended for non-residential development, then park land fees are not applied. In this case, because the note references non-residential development of the property, park land fees were not applied. Note #16 states that "Access is prohibited to Cynthia Drive and Leisure Run Road."

The resubdivision of Lot 1 included a variance to the requirement that lots in a subdivision accessing a major roadway have at least 200 feet of frontage, and was approved by the Zoning and Platting Commission on October 21, 2008. On February 19, 2009, a resubdivision of Lot 1 (C8-2008-0076.0A) was recorded without vacation of the original plat. The restrictions on the original subdivision continue to apply, however, and therefore a partial vacation of both the original plat and the resubdivision would be required to remove the notes on the plat. A replat would also be required (without the note which prohibits residential development) to allow for townhouse development to occur. Parkland fees would be due at the time of the site plan approval. Plat vacation and replat applications require the signed consent of all property owners involved in the plats, which would include the existing property owner (Equilibrium Development), the church, and Walgreens.

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Access to Leisure Run Road and/or Cynthia Drive: Any access to Cynthia Drive from the Creekside site would require the applicant to construct the segment of Cynthia Drive that connects to Nancy Drive. Additionally, if full vehicle access to Leisure Run Road and / or Cynthia Drive is planned for the townhome development, then an update to the Traffic Impact Analysis (TIA) prepared for the 2003 rezoning case would be required. The TIA update would include existing (background) vehicle trips as well as those generated by the proposed zoning at certain intersections (Staff is required to study what would be allowed under the proposed zoning, unless the applicant agrees to limit the development to the 45 townhomes). The TIA update would also look at trips that would be assigned to the previously omitted Leisure Run and Cynthia Drive. The update can be processed administratively, however, notification should be given to the neighborhoods advising them of any change in the recommendations since the restrictive covenant references the TIA and staff memo.

As a more efficient alternative, the property owner may wish to explore obtaining an access easement through the church property to the north to provide a second driveway to South 1st Street. Fire Department staff has reviewed the applicant's conceptual plan to determine their desire for a secondary or emergency access to these streets and shows a preference for the joint access easement for the church property to the north. Transportation review staff notes that if it is the Commission's desire to prohibit access to Cynthia Drive and to restrict access to Leisure Run Road to emergency access only, then this could be accomplished through conditional overlays, and an update to the TIA would not be required. This would still require the two plat vacations and replat as described above, since residential use is prohibited by plat note.

Compatibility Standard Waivers: Access to Leisure Run Road would require a compatibility waiver from the Board of Adjustment, since there is a 25-foot setback in this area and the driveway would encroach across the entire setback. For a driveway to Cynthia Drive, a compatibility waiver would also be required, but this one could be granted by the Zoning and Platting Commission since there would still be at least a 5-foot setback remaining.

Off-site Meeting Held by the Applicant: The Applicant provided information to residents on Leisure Run Road, Nancy Drive and Sahara Avenue about the proposed townhouse development, and scheduled a meeting with interested residents on Monday, June 27, 2011 at Fairview Baptist Church. The Applicant has also contacted a representative of the Far South Austin Community Association.

DEPARTMENT COMMENTS:

The subject lot is undeveloped and zoned community commercial – conditional overlay (GR-CO) combining district by way of a 2003 case. The property has frontage on South 1st Street, an arterial roadway. The unbuilt right-of-way for Cynthia Drive terminates at the west property line and Leisure Run Road terminates at the southern property line. The Traffic Impact Analysis performed with the 2003 rezoning case prohibits vehicular access to these streets. There are retail sales uses to the north that front on West Stassney Lane (GR; GR-CO), single family residences to the east (LO-MU-NP, SF-3-NP), apartments and single

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family residences to the south (MF-2; SF-3) and a mixture of single family residences and manufactured homes to the west (SF-3; MH). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The Applicant has requested townhouse and condominium residence (SF-6-CO) district zoning in order to develop 45 detached townhomes. Exhibit C shows the Applicant's conceptual plan. Staff recommends the Applicant's request, given: the surrounding area includes single family residences, manufactured homes, and multi-family residential uses, and SF-6-CO zoning would be compatible with the established character while further diversifying the housing options available; and 2) it is located in proximity to supporting office, commercial and civic uses.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GR-CO	Undeveloped
<i>North</i>	GR-CO; GR	Retail sales (convenience and general); Pharmacy; Church
<i>South</i>	SF-3	Single family residences
<i>East</i>	LO-MU-NP; SF-3-NP	Single family residences
<i>West</i>	MH; SF-3	Manufactured homes; Single family residences

AREA STUDY: N/A

TIA: An update to the TIA is provided as Attachment A

WATERSHED: Williamson Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

26 – Far South Austin Community Association
 175 – Salem Walk Association of Neighbors
 511 – Austin Neighborhoods Council 627 – Onion Creek Homeowners Association
 742 – Austin Independent School District
 786 – Home Builders Association of Greater Austin
 1008 – Woodhue Community Neighborhood Watch
 1037 – Homeless Neighborhood Association 1075 – League of Bicycling Voters
 1108 – Perry Grid 644 1113 – Austin Parks Foundation
 1116 – Soft Wind Neighborhood Association
 1173 – South Congress Combined Neighborhood Plan Contact Team
 1187 – South Austin Neighbor Awareness Project
 1200 – Super Duper Neighborhood Objectors and Appealers Organization
 1224 – Austin Monorail Project 1228 – Sierra Club, Austin Regional Group
 1236 – The Real Estate Council of Austin, Inc.
 1276 – South Congress Neighborhood Plan – COA Liaison

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SCHOOLS:

Odom Elementary School

Bedichek Middle School

Crockett High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-05-0105 – Sweetbriar Neighborhood Planning Area Rezoning – Stassney Lane to the North; IH-35 to the east; William Cannon Drive on the south, South 1st Street on the west	Rezoning of 43 tracts of land	To Grant	Approved (8-18-05).
C14-05-0010 – 5805 Nancy	MH to SF-3	To Grant	Approved SF-3 (4-14-05).

RELATED CASES:

The subject property, along with adjacent property to the north fronting West Stassney Lane and the east fronting South 1st Street was rezoned to GR-CO on October 30, 2003 (C14-03-0099 – Stassney South First Retail). The Conditional Overlay prohibits automotive-related uses, including service station, exterminating services and pawn shop services; restricts a food sales use to 10,000 square feet in size, prohibits a loading facility within 50 feet of the property line, and limits height of a building or structure to 40 feet. There is a public Restrictive Covenant for the conditions of the Traffic Impact Analysis as well as a private Restrictive Covenant that requires a 6-foot tall split-face concrete masonry wall along the west and south property lines, a pedestrian walkway from the property to Leisure Run Road, and places restrictions on amplified outdoor music and outdoor vendors. The TIA memo which is referenced in the 2003 public Restrictive Covenant is provided as Attachment 1. The private Restrictive Covenant is provided as Attachment 2.

The property is platted as Lot 1 B of Turtle Creek Commercial Subdivision, a Resubdivision of Lot 1, Fairview Baptist Subdivision Section Two, a plat recorded on February 19, 2009 (C8-2008-0076.0A). There are no pending site plan applications on the subject property.

ABUTTING STREETS:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
South 1 st Street	88 feet	MAU 4	Arterial	Yes	Yes	No

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CITY COUNCIL DATE: August 25, 2011

ACTION: Approved a Postponement request by the Staff to October 20, 2011 (7-0).

October 20, 2011

ORDINANCE READINGS: 1st

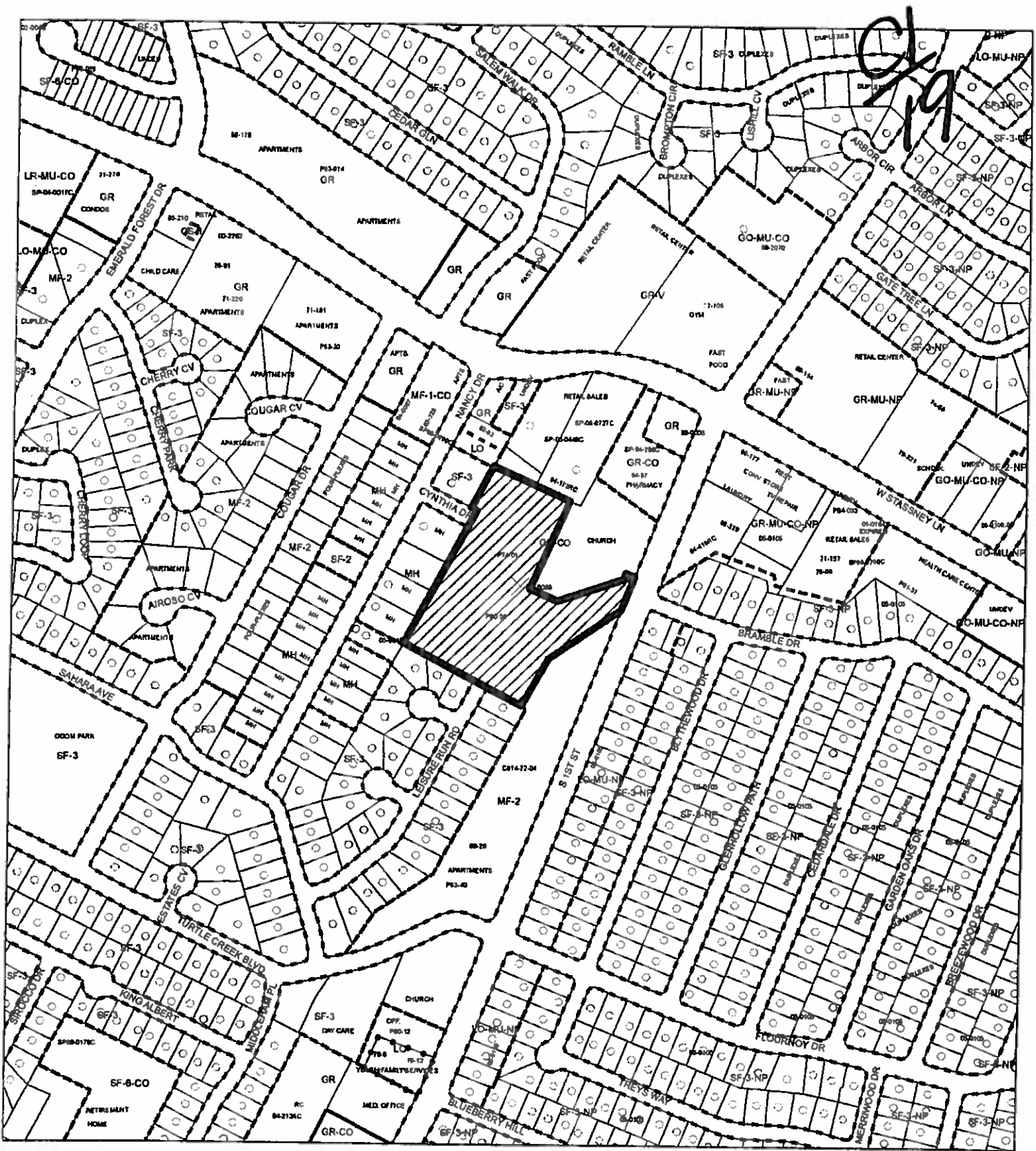
2nd

3rd

ORDINANCE NUMBER:




CASE MANAGER: Wendy Rhoades
e-mail: wendy.rhoades@austintexas.gov

PHONE: 974-7719



N



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 500'

ZONING

Exhibit A

ZONING CASE#: C14-2011-0066
 LOCATION: 5616 S 1ST ST
 SUBJECT AREA: 5.922 AC.
 GRID: G17
 MANAGER: WENDY RHOADES



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



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PERALES ENGINEERING, LLC
Land Development and Environmental Consulting Services

October 11, 2011

Ms. Wendy Rhoades, Case Manager
Development Services Process Coordinator
Land Use Review Division - Transportation Review Section
Planning and Development Review Department
505 Barton Springs Rd.
Austin TX, 78703

RE: Neighborhood Traffic Impact Analysis for Creekside (Zoning Case # C14-2011-0066)

Dear Ms. Rhoades:

We have performed a Neighborhood Traffic Impact Analysis for the above referenced case and offers the following comments.

The 5.922-acre tract is located in south Austin near the intersection of South First Street and Stassney Lane. The site is currently zoned Community Commercial with a conditional overlay (GR-CO) and is vacant. It is surrounded primarily by single family residences with some retail at the corner of Stassney Lane.

The zoning request is for Single Family-6 with a conditional overlay (SF-6-CO). The neighborhood traffic impact analysis is limited to 45 condominium units which is the maximum number of units allowed under this zoning request.

Roadways

South First Street would provide access to the site from the east side of the property. It is classified as a major arterial in the Austin Metropolitan Area Transportation Plan (AMATP). The road is currently a four-lane undivided section and has a right-of-way width of approximately 84 feet. South First Street is identified in the adopted Bicycle Plan and it is listed as a routed in the Capital Metro transit system.

Leisure Run Road could provide optional full access or emergency access to the site from the west side of the property. It is classified as a local street since at least 50% of its frontage is zoned SF-3 to SF-6. Leisure Run Road has a right-of-way width of approximately 48 feet and a pavement width of 27 feet. The street is not identified in the adopted Bicycle Plan and it is not listed as a routed in the Capital Metro transit system.

Traffic Generation and Traffic Analysis

Based on the Institute of Transportation Engineer's publication Trip Generation, the proposed 45 units could generate up to 321 vehicle trips per day.

One option is for 100% (321 VPD) of the site access to the property would be from South First Street. Assuming

ATTACHMENT A
NEIGHBORHOOD TRAFFIC
IMPACT ANALYSIS

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30,000 VPD on South First Street, the traffic would increase by approximately 1%. Option 2 accounts for 25% of the traffic (80 VPD) taking access from Leisure Run Road. Future traffic along Leisure Run with the proposed site traffic is expected to be less than 1,200 VPD. To estimate the existing traffic on Leisure Run, it is assumed that each single family home will generate approximately 10 trips per day. There are approximately 30 lots that take access to Leisure Run. Therefore, the estimated existing traffic count is 300 VPD. With the additional traffic from the proposed Creekside development, we conservatively estimate the proposed traffic count to be 500 VPD.

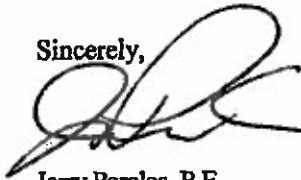
According to Section 25-6-116 of the Land Development Code, streets which are less than 30 feet in width are considered to be operating at an undesirable traffic level if the average daily traffic volume for such roadways exceeds 1,200 VPD. In the current configuration Leisure Run Road could provide additional access to the site if required and allowed.

Recommendations and Conclusions

- The additional traffic to the surrounding streets from the proposed development are insignificant.
- No additional right-of-way is need at this time to grant full access to Leisure Run Road from the proposed development.
- All driveways would need to comply with the current City of Austin Type II Commercial Driveway standards and would need to meet the minimum requirements for driveway width, throat length, driveway spacing, offset, and curb return radii. The owner will be responsible for obtaining permit approval for the driveways prior to site plan approval.

Please let me know if you have any questions.

Sincerely,



Jerry Perales, P.E.
President

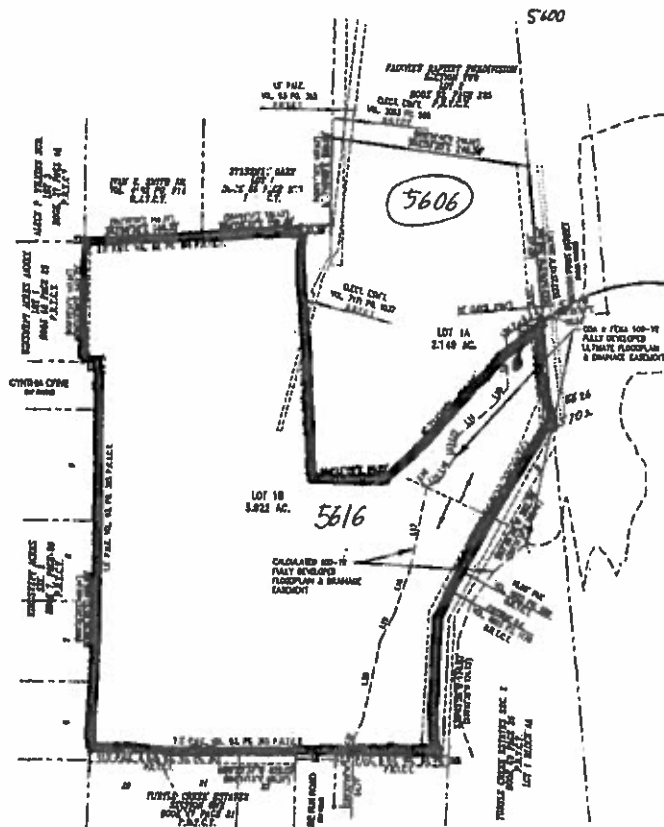


200900022

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TURTLE CREEK COMMERCIAL SUBDIVISION

A RESUBDIVISION OF LOT 1, FAIRVIEW BAPTIST SUBDIVISION SECTION TWO



REZONING AREA LOCATION MAP

NOTES:

1. ANY STRUCTURES CROSSING PROPERTY LINES MUST BE DEMOLISHED, OR OBTAIN A UNIFIED DEVELOPMENT AGREEMENT, PRIOR TO ANY BUILDING PERMITS BEING ISSUED ON THIS SITE.
2. NO LOT IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO THE CITY OF AUSTIN WATER AND WASTEWATER SYSTEMS.
3. THE WATER AND WASTEWATER UTILITY SYSTEM SERVING THIS SUBDIVISION MUST BE IN ACCORDANCE WITH THE CITY OF AUSTIN UTILITY DESIGN CRITERIA. THE WATER AND WASTEWATER UTILITY PLAN SHALL BE REVIEWED AND APPROVED BY THE AUSTIN WATER UTILITY. THE WATER AND WASTEWATER UTILITY CONSTRUCTION MUST BE INSPECTED BY THE CITY. THE LANDOWNER MUST PAY THE CITY INSPECTION FEE WITH THE UTILITY CONSTRUCTION.
4. BUILDING SETBACK LINES SHALL BE IN CONFORMANCE WITH THE CITY OF AUSTIN ZONING ORDINANCE REQUIREMENTS AS STATED IN THE LAND DEVELOPMENT CODE.
5. THE OWNER OF THIS SUBDIVISION, AND HIS OR HER SUCCESSORS AND ASSIGNS, ASSUMES RESPONSIBILITY FOR PLANS FOR CONSTRUCTION OF SUBDIVISION IMPROVEMENTS WHICH COMPLY WITH APPLICABLE CODES AND REQUIREMENTS OF THE CITY OF AUSTIN. THE OWNER UNDERSTANDS AND ACKNOWLEDGES THAT PLAT VARIATION OR REPLACING MAY BE REQUIRED, AT THE OWNER'S SOLE EXPENSE, IF PLANS TO CONSTRUCT THIS SUBDIVISION DO NOT COMPLY WITH SUCH CODES AND REQUIREMENTS.
6. PRIOR TO CONSTRUCTION ON LOTS IN THIS SUBDIVISION, DRAINAGE PLANS WILL BE SUBMITTED TO THE CITY OF AUSTIN FOR REVIEW. RAINFALL RUN-OFF SHALL BE HELD TO THE AMOUNT EXISTING AT UNDEVELOPED STATUS BY PONDING OR OTHER APPROVED METHODS.
7. PRIOR TO CONSTRUCTION, EXCEPT DETACHED SINGLE FAMILY OR DUPLEX ON ANY LOT IN THIS SUBDIVISION, A SITE DEVELOPMENT PERMIT MUST BE OBTAINED FROM THE CITY OF AUSTIN.
8. AUSTIN ENERGY HAS THE RIGHT TO CUT AND TRIM TREES AND SHRUBBERY AND REMOVE OBSTRUCTIONS TO THE EXTENT NECESSARY TO KEEP THE EASEMENTS CLEAR OF OBSTRUCTIONS. AUSTIN ENERGY WILL PERFORM ALL TREE WORK IN COMPLIANCE WITH CHAPTER 25-8, SUBCHAPTER B OF THE CITY OF AUSTIN LAND DEVELOPMENT CODE.
9. THE OWNER/DEVELOPER OF THIS SUBDIVISION/LOT MAY PROVIDE AUSTIN ENERGY WITH ANY EASEMENT AND/OR ACCESS REQUIRED FOR THE INSTALLATION AND ONGOING MAINTENANCE OF OVERHEAD AND UNDERGROUND ELECTRIC FACILITIES WITHIN OR ALONG THE PERIMETER OF THIS SUBDIVISION/LOT. THESE EASEMENTS/ACCESS ARE REQUIRED TO PROVIDE ELECTRIC SERVICE TO THE BUILDINGS AND WILL NOT BE LOCATED AS TO CAUSE THE SITE TO BE OUT OF COMPLIANCE WITH CHAPTER 25-8 OF THE CITY OF AUSTIN LAND DEVELOPMENT CODE.
10. THE OWNER SHALL BE RESPONSIBLE FOR INSTALLATION OF TEMPORARY EROSION CONTROL, REVEGETATION AND TREE PROTECTION. THE OWNER SHALL INCLUDE AUSTIN ENERGY'S WORK WITHIN THE LIMITS OF CONSTRUCTION FOR THIS PROJECT.
11. WATERSHED STATUS: THIS SUBDIVISION IS LOCATED WITHIN THE WILLIAMSON CREEK WATERSHED WHICH IS CLASSIFIED AS SUBURBAN AND SHALL BE MAINTAINED IN CONFORMANCE WITH THE CITY OF AUSTIN LAND DEVELOPMENT CODE.
12. THIS SUBDIVISION IS NOT LOCATED OVER THE EDWARDS AQUIFER RECHARGE ZONE.
13. BY APPROVING THIS PLAT, THE CITY OF AUSTIN ASSUMES NO OBLIGATION TO CONSTRUCT ANY INFRASTRUCTURE IN CONNECTION WITH THIS SUBDIVISION. ANY SUBDIVISION INFRASTRUCTURE REQUIRED FOR THE DEVELOPMENT OF THE LOTS IN THIS SUBDIVISION IS THE RESPONSIBILITY OF THE DEVELOPER AND/OR THE OWNERS OF THE LOTS. FAILURE TO CONSTRUCT ANY REQUIRED INFRASTRUCTURE TO CITY STANDARDS MAY BE JUST CAUSE FOR THE CITY TO DENY APPLICATIONS FOR CERTAIN DEVELOPMENT PERMITS INCLUDING BUILDING PERMITS, SITE PLAN APPROVALS, AND/OR CERTIFICATES OF OCCUPANCY.
14. EROSION/SEDIMENTATION CONTROLS ARE REQUIRED FOR ALL DEVELOPMENT, INCLUDING SINGLE FAMILY AND DUPLEX CONSTRUCTION PURSUANT TO SECTION 25-8-101 OF THE CITY OF AUSTIN LAND DEVELOPMENT CODE AND THE ENVIRONMENTAL CRITERIA MANUAL.
15. FOR A MINIMUM TRAVEL DISTANCE OF 25 FT. FROM THE ROADWAY EDGE DRIVEWAY GRADES MAY EXCEED 14% ONLY WITH SPECIFIC APPROVAL OF SURFACE AND GEOMETRIC DESIGN PROPOSALS BY THE CITY OF AUSTIN.
16. PUBLIC SIDEWALKS, BUILT TO CITY OF AUSTIN STANDARDS, ARE REQUIRED ALONG THE FOLLOWING STREETS AND AS SHOWN BY A DOTTED LINE ON THE FACE OF THE PLAT:
 - a. 1st STREET

THESE SIDEWALKS SHALL BE IN PLACE PRIOR TO THE LOT BEING OCCUPIED. FAILURE TO CONSTRUCT THE REQUIRED SIDEWALKS MAY RESULT IN THE WITHHOLDING OF CERTIFICATES OF OCCUPANCY, BUILDING PERMITS, OR UTILITY CONNECTIONS BY THE GOVERNING BODY OR UTILITY COMPANY.

17. DEVELOPMENT ON ANY LOT IN THIS SUBDIVISION SHALL BE PURSUANT TO PROVISIONS OF LOC 25-8-211.

18. BICYCLE AND PEDESTRIAN ACCESS IN CONFORMANCE WITH SUBCHAPTER E OF SECTION 25-2 OF THE CITY OF AUSTIN LAND DEVELOPMENT CODE WILL BE PROVIDED TO THE ADJACENT LOT 1A PRIOR TO SITE PLAN APPROVAL.

GRAPHIC SCALE



LEGEND

- CONCRETE MONUMENT FOUND
- IRON ROD FOUND
- IRON PIN SET
- BOUNDARY LINES
- EASEMENT LINES
- EX. SIDEWALK
- PLAY RECORDS OF TRAVIS COUNTY, TEXAS
- D.R.T.C.T. DEED RECORDS OF TRAVIS COUNTY, TEXAS
- RECORD INFORMATION
- P.U.E. PUBLIC UTILITY EASEMENT

LOT SUMMARY

LOT	ACREAGE
1A	2.149 AC
1B	5.922 AC
TOTAL	8.071 AC

LINE TABLE

NUMBER	DIRECTION	DISTANCE
L1	N80°30'30"W	18.88
(L1)	(N80°40'18"W)	(19.87)
L2	N29°32'11"E	5.01
(L2)	(N29°22'58"E)	(5.02)
L3	S86°33'57"E	30.00
L4	N23°24'03"E	20.00
L5	N72°34'22"W	16.21
L6	S81°11'50"W	13.42
L7	N86°40'27"W	14.00
L8	S85°47'53"W	8.25
L9	S27°44'51"W	82.48
L10	S85°17'30"W	23.47
L11	S78°37'03"W	60.49
L12	S54°14'10"W	8.42
L13	S28°07'59"W	20.31
L14	S82°18'37"W	34.31
L15	N85°14'39"W	15.42
L16	S73°28'10"W	2.27
L17	S38°43'12"W	101.18
L18	S48°15'03"W	11.42
L19	S56°32'00"W	37.28
L20	S40°23'38"W	100.66
L21	S50°30'03"W	47.18

PROPERTY OWNERS: FAIRVIEW BAPTIST CHURCH
3808 S. 1st STREET
AUSTIN, TEXAS 78745

ACREAGE: 8.071 AC
NUMBER OF BLOCKS: 2
NUMBER OF LOTS: 2
SUBMITTAL DATE:

SURVEYOR: PAUL UTTERBACK, R.P.L.S. 5726
A.T.S. ENGINEERS, INSPECTORS & SURVEYORS
4811 BEE CAVES RD., #200
AUSTIN, TEXAS 78746
512-328-6995
512-328-6996

ENGINEER: KENNETH K. POKA
A.T.S. ENGINEERS, INSPECTORS & SURVEYORS
4811 BEE CAVES RD., #200
AUSTIN, TEXAS 78746
512-328-6995
512-328-6996

UTILITY PROVIDER: WATER: AUSTIN WATER
SEWERAGE: AUSTIN WATER
TELEPHONE: ATT
ELECTRIC: AUSTIN ENERGY

2009 Exhibit B
RECORDED PLAT

DATA'S
ENGINEERS
INSPECTORS
& SURVEYORS

C8-2008-0076.0A

1 of 2

1364-3

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SUBDIVISION REVIEW SHEET

CASE NO.: C8-2008-0076.0A

Z.A.P. DATE: October 21, 2008

SUBDIVISION NAME: Turtle Creek Commercial Subdivision; A resubdivision of Lot 1, Section 2, Fairview Baptist Subdivision

AREA: 8.0667 acres

LOTS: 2

OWNER/APPLICANT: Fairview Baptist Church
(Jose R. Benavides)

AGENT: Mark Dickey

ADDRESS OF SUBDIVISION: 5606 S. 1st Street

GRIDS: G17

COUNTY: Travis

WATERSHED: Williamson Creek

JURISDICTION: Full Purpose

EXISTING ZONING: GR-CO

MUD: N/A

PROPOSED LAND USE: Commercial – Office / Public

ADMINISTRATIVE WAIVERS: None

VARIANCES: The applicant requested a variance from Section 25-6-381 (a) of the Land Development Code which requires that lots in a subdivision accessing a major roadway have at least 200 feet of frontage. This variance was granted by the Commission on July 1, 2008 as a separate agenda item.

SIDEWALKS: Sidewalks will be provided on both sides of all internal streets and the subdivision side of boundary streets.

DEPARTMENT COMMENTS: The request is for approval of the Turtle Creek Commercial Subdivision; A resubdivision of Lot 1, Section 2 of the Fairview Baptist Subdivision. The proposed plat is composed of 2 lots on 8.0667 acres. Lot 1 is currently developed with a religious assembly use. This subdivision application proposes to resubdivide the existing lot creating 1 additional lot for proposed office use. All utilities will be provided by the City of Austin. The applicant will be responsible for all costs associated with any required improvements.

STAFF RECOMMENDATION: The staff recommends approval of this resubdivision based upon it meeting all City and State requirements.

ZONING AND PLATTING COMMISSION ACTION:

2009
RESUBDIVISION
EXHIBIT B - SUPPORT
MATERIAL

SUBDIVISION REVIEW SHEET

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CASE NO.: C8-2008-0076.0A

Z.A.P. DATE: July 1, 2008

SUBDIVISION NAME: Turtle Creek Commercial Subdivision; A resubdivision of Fairview Baptist Subdivision

AREA: 8.0667 acres

LOTS: 2

OWNER/APPLICANT: Fairview Baptist Church
(Jose R. Benavides)

AGENT: Mark Dickey

ADDRESS OF SUBDIVISION: 5606 S. 1st Street

GRIDS: G17

COUNTY: Travis

WATERSHED: Williamson Creek

JURISDICTION: Full Purpose

EXISTING ZONING: GR-CO

MUD: N/A

PROPOSED LAND USE: Commercial – Office / Public

ADMINISTRATIVE WAIVERS: None

VARIANCES: The applicant is requesting a variance from Section 25-6-381 (a) of the Land Development Code which requires that lots in a subdivision accessing a major roadway have at least 200 feet of frontage. **RECOMMENDED.** (See attached memorandum from Transportation Review).

SIDEWALKS: Sidewalks will be provided on both sides of all internal streets and the subdivision side of boundary streets.

DEPARTMENT COMMENTS: The Turtle Creek Commercial Subdivision; A resubdivision of Fairview Baptist Subdivision is currently under review. The proposed plat is composed of 2 lots on 8.0667 acres. The request is for approval of the above referenced variance only. The resubdivision plat will be brought to the Commission and considered at a later date.

STAFF RECOMMENDATION: The staff recommends approval of the above referenced variance request.

ZONING AND PLATTING COMMISSION ACTION:

CITY STAFF: Don Perryman
e-mail: don.perryman@ci.austin.tx.us

PHONE: 974-2786



MEMORANDUM

TO: Don Perryman, Case Manager
Members of the Planning Commission

FROM: Shandrian Jarvis, Transportation Review

DATE: June 23, 2008

SUBJECT: Variance Request for Turtle Creek Commercial Subdivision
Case Number – C8-2008-0076.0A

Recommendation: To approve the variance

The applicant for the above referenced subdivision is requesting a variance to Title 25 of the Land Development Code (LDC) Section 25-6-381(A), which prohibits direct access from a lot to a major roadway on a subdivision plat if the lot that has less than 200 feet of frontage on the roadway and no alternative access is available. The variance is for Lot 1B to have less than the required street frontage along South First, a public street.

The site consists of one 8.07-acre tract and is zoned GR-CO, General Retail, consistent with properties located in proximity to Stassney Lane. The property is a re-subdivision of the Fairview Baptist Subdivision, which was approved in 1987 (case no. C8-87-026).

Staff recommends approval of the variance with conditions for the following reasons:

- No alternative access is available. Adjacent 100-year floodplain provides a constraint to the property along the boundary at South First Street. In addition, the adjacent property owners do not support a joint access agreement and the site is prohibited from taking access to the two abutting streets, Leisure Run Lane and Cynthia Drive, as a condition of the original subdivision approval.
- The 150-foot minimum driveway spacing requirement along South First street would be met with the proposed driveway location, and the proposed driveway would align with the opposing Bramble Drive;
- The applicant has agreed to provide bicycle and pedestrian access to the adjacent church property in conformance with Subchapter E of Section 25-2 of the City's Land Development Code.

If you have any further questions or required additional information, please contact me at 974-2628.

Shandrian Jarvis
Senior Planner
Land Use Review, 4th Floor
City of Austin, Watershed Protection & Development Review Department

C/28

Engineering
Engineers
Contractors

1800 Bee Cave Road
Suite 200
Austin, Texas 78745
512.328.6995
512.328.6995 Fax

ATS@ATS-Engineers.com

Commercial and
Residential Engineering

- Structural
- Civil
- Mechanical
- Electrical
- Plumbing

Rehabilitation Designs

Property Condition
Inspections

Texas Accessibility
Standards (ADA)
Compliance Reviews
& Inspections

Certified Code
Compliance Inspectors
& Plan Reviewers

Construction Consulting

June 11, 2008

Victoria Li,
Director Watershed Protection
and Development Review Department
505 Barton Springs Road
Austin, Texas 78701

**Re: Turtle Creek Commercial Subdivision, A Resubdivision of Fairview
Baptist Subdivision SE
Case Number: C8-2008-0076.0A**

Dear Victoria Li,

We are requesting a variance from LDC, 25-6-381(A). No direct access from a lot to a major roadway is permitted on a subdivision plat if the lot has less than 200 feet of frontage on the roadway. The existing church parking lot has 61 spaces provided and access to South 1st that adequately serve the church activity. A church representative provided the following traffic information and expressed no concern with the existing layout.

Tuesday evening – 10 trips
Wednesday evening - service – 30 trips
Thursday evening - bible study – 10 trips
Saturday morning - prayer meetings – 10 trips
Sunday morning - services – 60 trips

The proposed development shows an access drive lined up with Bramble Drive. The driveway exceeds the 150-foot minimum offset required for access to a minor arterial. The site is restricted from taking access to Leisure Run or Cynthia Drive.

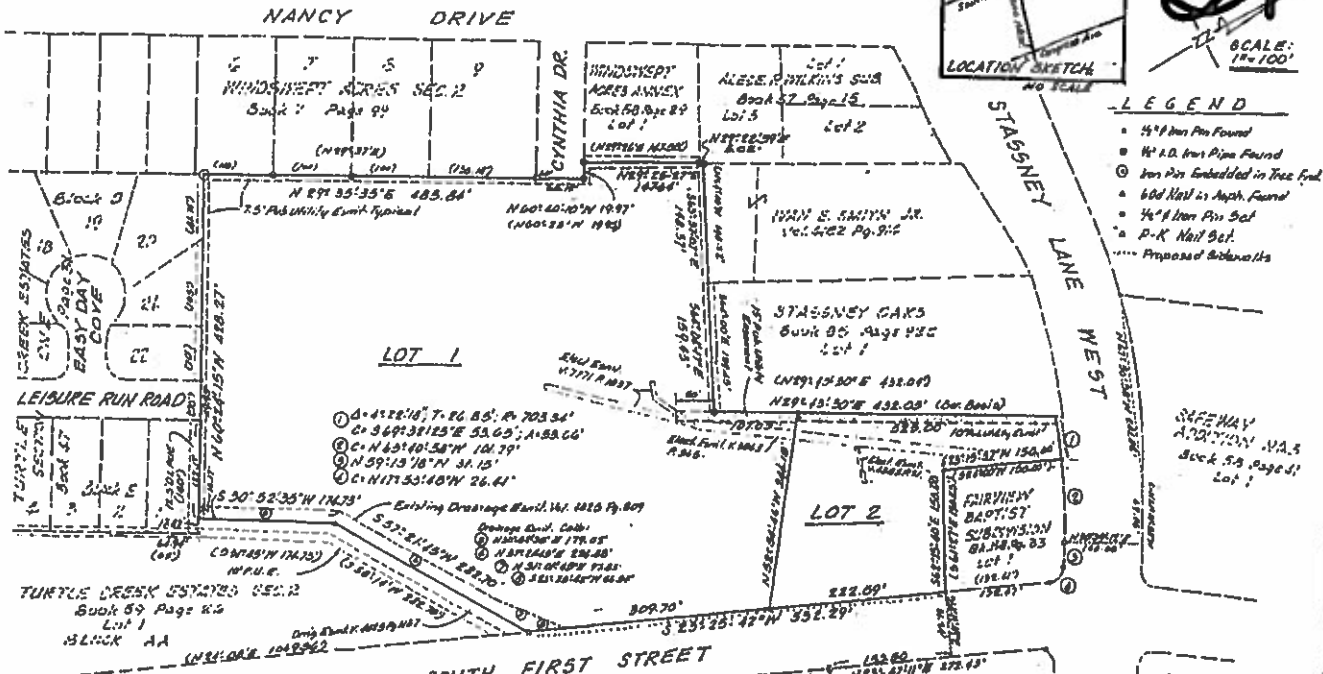
The church and developer both agree that in order to subdivide the lot separate access to South 1st would be more beneficial to each party. If you need additional information or have any questions about the variance request please contact me.

Sincerely,

Marc Dickey

FAIRVIEW BAPTIST SUBDIVISION - SECTION TWO

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SCALE: 1"=100'



- LEGEND**
- 1/4\"/>

THE STATE OF TEXAS,
THE COUNTY OF TRAVIS:

KNOWN ALL MEN BY THESE PRESENTS: That Fairview Baptist Church of Austin, a non-profit corporation acting hereinafter by and through, Kenneth E. Davison, Authorized Agent, owner of 3.0667 acres of land out of and a part of the William Cannon League, said 3.0667 acres being out of and a part of that certain 10 acres conveyed unto said church by deed recorded in Volume 1976, Page 1084 of the Deed Records of Travis County, Texas, and Austin Drugstore Builders, Ltd., a Texas limited partnership, Tallman Group, Inc., general partner, acting by and through, James T. Rose, President, owner of 1.2779 acres of land out of and a part of the William Cannon League, said 1.2779 acres conveyed unto said Austin Drugstore Builders, Ltd., by deed recorded in Volume 12267, Page 141, of the Deed Records of Travis County, Texas, do hereby subdivide 3.3446 acres of land in accordance with the plat shown hereon to be known as FAIRVIEW BAPTIST SUBDIVISION SECTION TWO, and do hereby dedicate to the public the use of the streets and easements shown hereon, subject to any easements and/or restrictions heretofore granted and not released.

WITNESS THE HAND OF Kenneth E. Davison for FAIRVIEW BAPTIST CHURCH OF AUSTIN; this the 5th day of June, 1994, A.D.

WITNESS THE HAND OF James T. Rose, President of Tallman Group, Inc., general partner, AUSTIN DRUGSTORE BUILDERS LTD; this the 5th day of June, 1994, A.D.

Kenneth E. Davison
Twp. Clerk, Suite 400
1550 Capital of Texas Highway South
Austin, Texas 78746

James T. Rose
P.O. Box 102275
Austin, Texas 78770

I, the undersigned authority on this day personally appeared Kenneth E. Davison, known to me to be the person whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and considerations therein expressed.

NOTARY PUBLIC
Printed Name: Lynne Hopkins
Commission Expires: 10/1/95



THE STATE OF TEXAS,
THE COUNTY OF TRAVIS:

I, Dana DeBartovis, Clerk of Travis County, Texas, do hereby certify that the foregoing instrument of writing and its Certificate of Authentication, was filed for record in my office on the 5th day of June, 1994, at 10:00 o'clock A.M., and duly recorded on the 5th day of June, 1994, at 2:00 o'clock P.M. in the Plat Records of said County and State in Book 5th, Page 165.

WITNESS MY HAND AND SEAL OF THE COUNTY CLERK OF SAID COUNTY THIS 5th day of June, 1994, A.D.

DANA DEBARTOVIS, COUNTY CLERK OF TRAVIS COUNTY, TEXAS

FILED FOR RECORD at 10:00 o'clock P.M., this the 5th day of June, 1994, A.D.

DANA DEBARTOVIS, CLERK OF TRAVIS COUNTY, TEXAS

THE STATE OF TEXAS,
THE COUNTY OF TRAVIS:

I, Melvin G. Lindsey, an authorized under the laws of the State of Texas to practice the profession of surveying and hereby certify that this plat complies with Title 13 of the Austin City Code of 1991, as amended, and is true and correct, and was prepared from an actual survey of the property and was under my supervision on the ground.

Melvin G. Lindsey
Registered Professional Land Surveyor No. 1587
POINT-LINE SERVICES, INC.
1301 Capital of Texas Highway South
Suite A-304
Austin, Texas 78746

6-8-94
Date



ACCEPTED AND AUTHORIZED for record by the Director, Department of Planning and Development, City of Austin, County of Travis, this the 2nd day of June, 1994, A.D.

Mick Glicko
Deputy Director
Department of Planning and Development

NOTES:

- 1) No building will be occupied until the building is connected to the City of Austin water and wastewater system.
- 2) All water and wastewater system improvements must be in accordance to the City of Austin Water and Wastewater System Design Criteria and Specifications. All water and wastewater plans must be presented to the City of Austin Water and Wastewater Utility for review and approval. All water and wastewater construction must be inspected by the City of Austin.
- 3) All streets and alleys shall be constructed in accordance with the Transportation Criteria Manual.
- 4) Building setback lines shall be in accordance with city of Austin zoning ordinance requirements.
- 5) Development of all lots in this subdivision is hereby restricted to use other than residential.
- 6) No buildings, fences, landscaping, or other structures are permitted in drainage easements except as approved by City of Austin/Travis County.
- 7) Property owner shall provide for access to drainage easements as may be necessary and shall not prohibit access by governmental authorities.
- 8) All drainage easements shall be maintained by the property owner or assigns.
- 9) No portion of this tract is within the boundaries of the 100 year floodplain of any waterway that is within the limits of study of the Federal Flood Insurance Administration FIRM Panel No. 4836C 0101C, dated June 10, 1993, for Travis County, Texas.
- 10) Prior to construction on lots in this subdivision, drainage plans will be submitted to the City of Austin for review. Rainfall runoff shall be held to the current existing at undeveloped status by ponding or other approved methods, and a site Development Permit must be obtained from the City of Austin.
- 11) Public sidewalks, built to City of Austin standards, are required along the following streets and as shown by a dotted line on the face of the plat: South 1st and Stagney Lane. These sidewalks shall be in place prior to the lot being occupied. Failure to construct the required sidewalks may result in the withholding of Certificates of Occupancy, building permits, or utility connections by the governing body of utility company.
- 12) Off-street loading and unloading facilities shall be provided on all commercial and industrial lots.
- 13) Any construction on these lots shall conform to all applicable city ordinances.

Notes 14 and 15 Not Used.

- 14) Access is prohibited to Cynthia Drive and Leisure Run Road.
- 15) This project is subject to the requirements of Chapter 13-2, Article V and Chapter 13-7, Article I of the Land Development Code.
- 16) There will be no cut or fill in excess of four feet for any lot grading.
- 17) This subdivision plat was approved and recorded before the construction and completion of required subdivision improvements. Pursuant to the terms of a Subdivision Improvement Agreement between the Fairview Baptist Church of Austin, subdivision and the City of Austin, dated 10/1/93, the subdivision is responsible for the construction of all improvements needed to serve the lots within the subdivision. This responsibility may be assigned in accordance with the terms of that agreement.

For the Subdivision Improvement Agreement pertaining to this subdivision, see separate instrument recorded in Vol. 1976, Page 1084, in the Deed Records of Travis County, Texas.

CL
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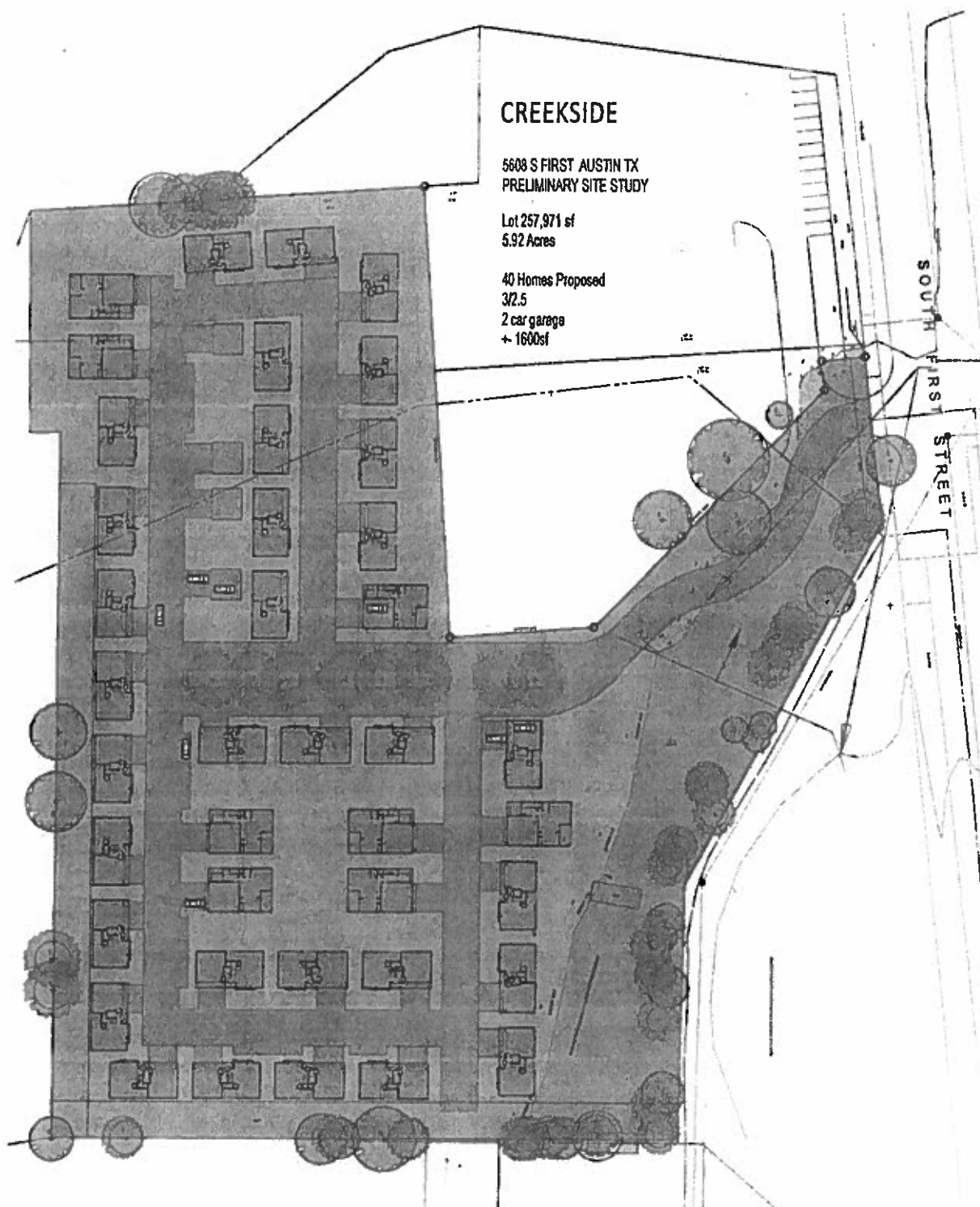


EXHIBIT C
APPLICANT'S CONCEPTUAL PLAN

Zoning Case No. C14-03-0099

RESTRICTIVE COVENANT

OWNERS: Fairview Baptist Church of Austin
Thomas and Helen O'Meara
Ivan E. and Frances G. Smith, Jr. Revocable Living Trust

ADDRESS: See Below

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 10.97 acre tract of land, more or less, out of the William Cannon League, Abstract 6, Survey No. 19, consisting of three parcels of land in Travis County, the tract of land being more particularly described in Exhibit "A" incorporated into this covenant.

WHEREAS, the Owners of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owners of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, their heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generates traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by John F. Hickman and Associates, dated July, 2003, or as amended and approved by the Director of the Watershed Protection and Development Review Department. Development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department dated September 2, 2003. The TIA shall be kept on file at the Watershed Protection and Development Review Department
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

10-30-07

2-6

ATTACHMENT B4
PUBLIC RC W/TIA REFERENCE

- C1
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5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 29th day of Oct, 2003.

OWNERS:

Fairview Baptist Church of Austin,
a Texas non-profit association

By: _____
Charles Long, Pastor

Address: 5606 South 1st St., Austin, TX 78748

Thomas J. O'Meara, Jr.

Helen O'Meara

Address: 103 East Milton St., Austin, TX 78704

The Ivan E. and Frances G. Smith, Jr.
Revocable Living Trust

By: Ivan E. Smith, Jr.
Ivan E. Smith, Jr.

By: Frances G. Smith
Frances G. Smith

Address: 8 Doolittle Dr., Wimberley, TX 78676



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Exhibit A

Date: September 2, 2003
To: Annick Beaudet, Case Manager
CC: Members of the Zoning and Platting Commission
John Hickman, John F. Hickman and Associates
Carol Kaml, Fiscal Officer
Reference: Stassney South First Retail Traffic Impact Analysis, C14-03-0099

The Transportation Review Section has reviewed the Traffic Impact Analysis for Stassney South First Retail, a 10.97-acre development located in south Austin at the southwest corner of the Stassney Lane and South First Street Intersection. The TIA for this site was prepared by John Hickman of John F. Hickman and Associates in July 2003.

Trip Generation

The proposed mixed-use development consists of the following land uses:

- Supermarket 50,000 square feet
- Shopping Center 33,000 square feet
- Fast Food with Drive Through 10,000 square feet

The property is currently zoned Limited Office (LO), Neighborhood Commercial (LR), and Family Residence (SF-3). The proposed rezoning request is for GR, Community Commercial. Completion of the project is scheduled for the year 2005.

Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the development will generate approximately 13,880 unadjusted average daily trips (ADT). Of these, 743 trips will occur in the morning peak-hour and 1,212 will occur in the evening peak-hour.

Table 1 represents the adjusted average trip generation by land use for the proposed development.

TABLE 1. TRIP GENERATION (Adjusted)						
Land Use	Size	Daily	AM Peak Hour		PM Peak Hour	
			Enter	Exit	Enter	Exit
Supermarket	50,000 sf	3,334	60	39	173	166
Shopping Center	33,000 sf	2,172	33	21	93	101
Fast Food w/ Drive Through	10,000 sf	2,282	120	114	80	74
Total		7,788	213	174	346	341

Assumptions

1. Traffic growth rate for all streets is 3.5%.
2. Background traffic volumes for 2003 included estimated traffic volumes for the following projects:

- SPC-00-2249C South Austin Mini Storage
- SP-00-2432C Little Texas (Alexan Stassney Heights)
- SP-01-0124C Talavera Apartments
- SP-01-0515C Texas Middle School Association
- SP-02-0416C Central Park
- SP-03-0049C Capitol Soccer Club
- SP-03-0072C Maranatha Baptist Temple

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3. Reductions were taken for Internal capture as follows:

Table 2. Internal Capture Reductions	
Land Use	Reduction %
Supermarket	5
Fast Food w/ Drive Through	5

4. Reductions were taken for pass-by trips as follows:

Table 3. Pass-by Reductions by %		
Land Use	AM	PM
Supermarket	34%	36%
Shopping Center	32%	34%
Fast Food w/ Drive Through	49%	50%

5. A 3% reduction was taken for transit use. Capital Metro provides service to this area via Route 10 (South First), Route 311 (Stassney) and Route 110 (South Central Flyer).

Existing and Planned Roadways

Stassney Lane – This roadway is classified as a four-lane divided major arterial and creates the northern boundary of the site. The traffic volumes for year 2002 on Stassney west of IH 35 were 31,826 vehicles per day. This roadway is in the Bicycle Plan as a priority one route.

South 1st Street – South 1st Street bounds the site on the east and is classified as a four-lane undivided minor arterial in the Roadway Plan. The traffic volume on South 1st Street north of Stassney Lane was approximately 22,043 vehicles per day in 2003. This roadway is classified as a priority 2 route in the Bicycle Plan.

Congress Avenue – This roadway is located east of the site and is classified as a four-lane undivided major arterial at its intersection with Stassney Lane. In 2025, the Roadway Plan calls for Congress to be a four-lane divided major arterial between US 290 and Stassney and a six-lane divided major arterial between Stassney and William Cannon. Year 2000 traffic volumes for Congress Avenue north and south of Stassney Lane were 21,000 and 16,300 vehicles per day respectively.

Emerald Forest Drive – This roadway is located west of the site and is classified as a collector street. The 1997 traffic volume for Emerald Forest was 4,530 vehicles per day. This street is classified in the Bicycle Plan as a priority one route.

Flournoy Drive – Flournoy Drive is located south of the site is classified as a two-lane collector. Year 1997 traffic volumes for this roadway were 3,500 vehicles per day. This street is classified in the Bicycle Plan as a priority one route.

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35

Traffic Analysis

The impact of site development traffic on the existing area roadways was analyzed. Two time periods and travel condition were evaluated:

- 2003 – Existing Conditions
- 2005 – Forecasted Conditions with Site Generated Traffic

Intersection Level of Service (LOS)

The TIA analyzed seven intersections, of which four are signalized. All of the intersections operate at an acceptable LOS with the improvements recommended with the following exceptions:

- 1) The PM peak at the intersection of Stassney and South First is projected to have a failing LOS in 2005 before the addition of site traffic. With the addition of site traffic, the LOS at this intersection will be maintained at the level forecasted for 2005 background traffic only.
- 2) The PM peak at the intersection of Stassney Lane and Driveway A is projected to have a failing LOS, but the failing movements are contained on site and therefore, no additional mitigation is required.
- 3) The intersection of South First Street and Driveway C is projected to have a failing LOS, but the failing movements are contained on site and therefore, no additional mitigation is required.

Table 4. Level of Service				
Intersection	2003		2004	
	AM	PM	AM	PM
Stassney Lane and South First Street*	C	D	D	E
Stassney Lane and Congress Avenue*	D	F	C	D
Stassney Lane and Emerald Forest*	C	C	C	D
South First Street and Flourmoy Drive*	B	B	B	B
Stassney Lane and Driveway A			B	E
Stassney Lane and Driveway B			B	B
South First Street and Driveway C			E	F

*SIGNALIZED

Recommendations

1. Prior to 3rd reading at City Council, fiscal is required to be posted for the following improvements:

Table 5. Recommended Improvements			
Intersection	Improvement	Pro Rata %	Pro Rata Cost
Stassney and S. First	Add southbound right turn lane	8.88%	\$5,032
Stassney and Congress	Restripe to provide separate northbound and southbound left turn lanes	4.64%	\$99
Stassney and Driveway A	Construct westbound left turn lane	100%	\$31,228

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36

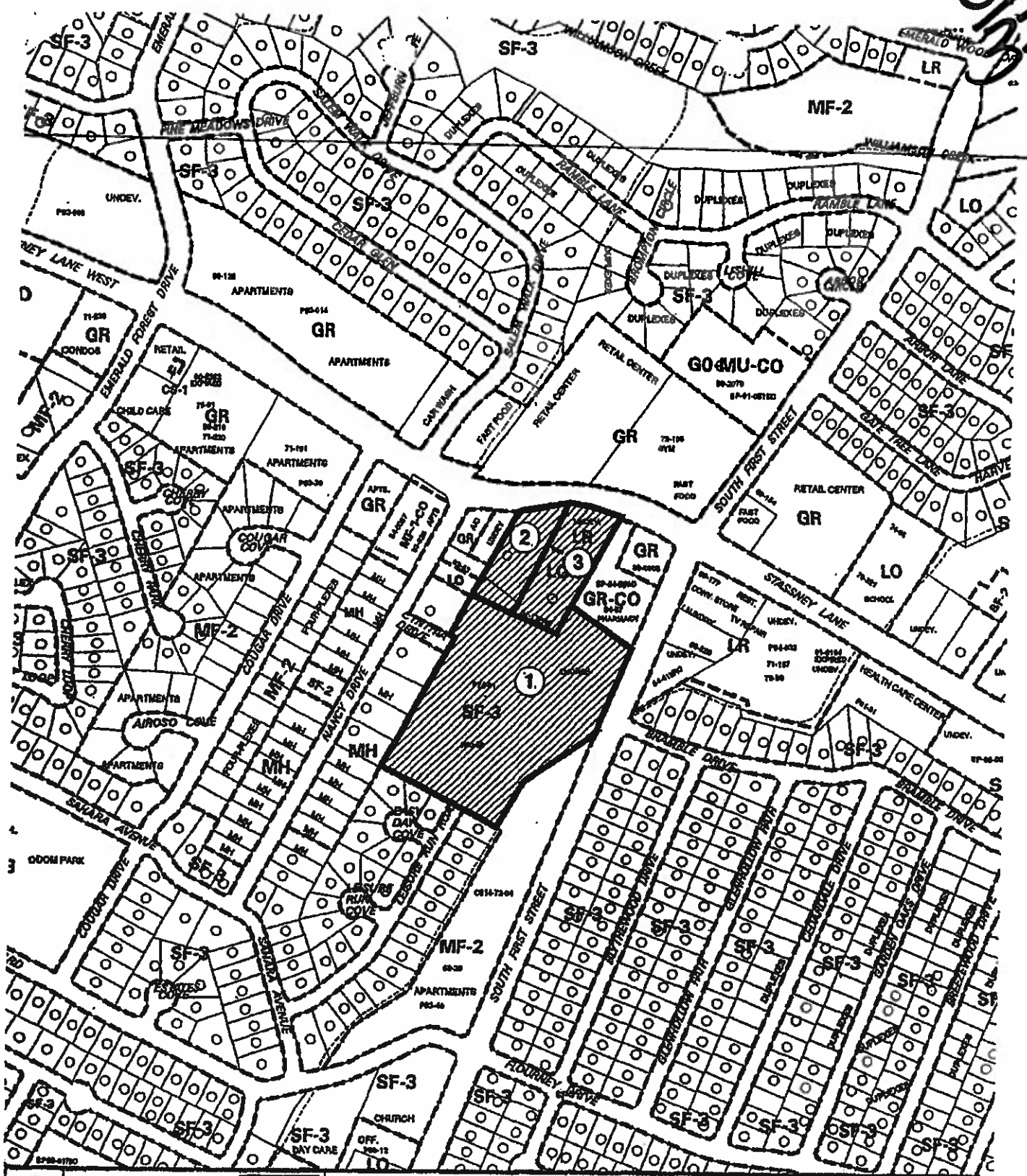
2. Vehicular access to Leisure Run Road and Cynthia Drive shall be prohibited.
3. Driveway access to Stassney Lane will be limited to one site driveway at the median opening on Stassney and joint access with the Walgreen's property to the east.
4. Approval from the Texas Department of Transportation must be received prior to first reading at City Council.
5. The Transportation Planning and Sustainability Department has approved the TIA.
6. For Information: Three copies of the final version of the TIA incorporating all corrections and additions must be submitted prior to 3rd reading at City Council.
7. Development of this property should be limited to uses and intensities, which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

If you have any questions or require additional information, please contact me at 974-2044.

Amy Link

Amy Link
Transportation Planner – Watershed Protection and Development Review Department

CL 37



 1" = 400'	SUBJECT TRACT 	ZONING CASE #: C14-03-0099 ADDRESS: W STASSNEY LN @ S 1ST SUBJECT AREA (acres): 10.922		DATE: 03-07 INTLS: 8M	CITY GRID REFERENCE NUMBER G17
	PENDING CASE 				
	ZONING BOUNDARY 				
	CASE MGR: W. WALSH				

OFFICE / UNDEVELOPED

Zoning Case No. C14-03-0099

RESTRICTIVE COVENANT

OWNERS: Fairview Baptist Church of Austin; Ivan E. and Frances G. Smith, Jr. Revocable Living Trust; Thomas J. O'meara, Jr. and Helen Martha O'meara.

ADDRESS: 5606 South 1st Street; 705 Stassney Lane; 709 Stassney Lane

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Approximately 10.7 acres of land out of the William Cannon League, Abstract 6, Survey No. 19, City of Austin, Travis County, Texas, being a portion of the plat of Fairview Baptist Subdivision Section Two as filed for record in Plat Book 93, Page 365, and all of the plat of Stassney Oaks as filed for record in Plat Book 85, Page 92C, of the plat records of Travis County, Texas; and being all of the 1.22 acre tract of land conveyed to the Ivan E. & Frances G. Smith, Jr. Revocable Living Trust, by deed recorded in Volume 13150 at Page 235, Official Records of Travis County, Texas; being more particularly described in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owners of the Property desire that the Property be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owners of the Property, for the Consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, their heirs, successors, and assigns:

1. **Masonry Wall.** Owners agree that any site plan application filed with the City of Austin shall include a masonry wall six (6) feet in height from existing grade along the west and south property lines. The wall may be constructed of split-faced concrete masonry unit, or any other similar materials, excluding gates.
2. **Pedestrian Walkway.** Subject to the approval of the City of Austin, pedestrian access to the Property via a pedestrian walkway from Leisure Run will be included in any site plan covering the Property. Such pedestrian access may be changed or terminated without requiring an amendment to this Restrictive Covenant, if, in the Owners' sole opinion, pedestrian access cannot be safely provided or it poses a security risk to the Property.
3. **Amplified Music Restriction.** There shall be no amplified outdoor music on the Property; provided, however, that amplified music entertainment during occasional outdoor special events on the Property shall not constitute a violation of this covenant.
4. **Outdoor Vendor Restriction.** Independent Vendors shall be prohibited from selling items outdoors within ten feet of either side of the main entrance of any grocery store on the Property. Further, independent vendors shall be prohibited from selling clothing outdoors.

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5. **Enforcement.** If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for (a) property owners adjacent to the Property or (b) a neighborhood association registered with the City of Austin whose boundaries encompass the Property to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant to prevent the person or entity from such actions.

6. **Partial Invalidity.** If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

7. **Modification/Termination.** This agreement may be modified, amended, or terminated only by the Owner(s) of the Property, after written notice is delivered to (a) the City of Austin, (b) the property owners adjacent to the Property, and (c) the neighborhood association(s) registered with the City of Austin whose boundaries encompass the Property. Such modification, amendment or termination shall not be effective until the expiration of thirty (30) days from delivery of the required notice.

8. **Counterparts/Facsimile Signatures.** This restrictive covenant may be executed in any number of multiple counterparts which, when taken together, constitute one agreement enforceable against all parties. The delivery of a facsimile of an executed copy of this restrictive covenant will be deemed delivery of an original.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the 24th day of October, 2003.

OWNERS:

Fairview Baptist Church of Austin,
a Texas non-profit corporation

By: _____
Charles Long, Registered Agent

Thomas J. O'Meara, Jr.
Thomas J. O'Meara, Jr.

Helen Martha O'Meara
Helen Martha O'Meara

Ivan E. and Frances G. Smith, Jr. Revocable
Living Trust

By: _____
Ivan E. Smith, Jr.

By: _____
Frances G. Smith

C1
40

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 29th day of October, 2003, by Charles Long, Registered Agent for Fairview Baptist Church of Austin, a Texas non-profit corporation, on behalf of said corporation.

Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 29th day of October, 2003, by Thomas J. O'Meara.



Shanell Salinas

Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 29th day of October, 2003, by Helen Martha O'Meara.



Shanell Salinas

Notary Public, State of Texas

CL/41

5. Enforcement. If any person or entity shall violate or attempt to violate this agreement or covenant, it shall be lawful for (a) property owners adjacent to the Property or (b) a neighborhood association registered with the City of Austin whose boundaries encompass the Property to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant to prevent the person or entity from such actions.

6. Partial Invalidity. If any part of this agreement or covenant is declared invalid, by judgment of a court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

7. Modification/Termination. This agreement may be modified, amended, or terminated only by the Owner(s) of the Property, after written notice is delivered to (a) the City of Austin, (b) the property owners adjacent to the Property, and (c) the neighborhood association(s) registered with the City of Austin whose boundaries encompass the Property. Such modification, amendment or termination shall not be effective until the expiration of thirty (30) days from delivery of the required notice.

8. Counterparts/Facsimile Signatures. This restrictive covenant may be executed in any number of multiple counterparts which, when taken together, constitute one agreement enforceable against all parties. The delivery of a facsimile of an executed copy of this restrictive covenant will be deemed delivery of an original.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the _____ day of _____, 2003.

OWNERS:

Fairview Baptist Church of Austin,
a Texas non-profit corporation

By: Charles Long
Charles Long, Registered Agent

Thomas J. O'meara, Jr.

Helen Martha O'meara

Ivan E. and Frances G. Smith, Jr. Revocable
Living Trust

By: _____
Ivan E. Smith, Jr.

By: _____
Frances G. Smith

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42

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 11 day of November, 2003, by Charles Long, Registered Agent for Fairview Baptist Church of Austin, a Texas non-profit corporation, on behalf of said corporation.



Laura E. Turner
Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2003, by Thomas J. O'meara, Jr.

Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2003, by Helen Martha O'meara.

Notary Public, State of Texas

C/43

5. Enforcement. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for (a) property owners adjacent to the Property or (b) a neighborhood association registered with the City of Austin whose boundaries encompass the Property to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant to prevent the person or entity from such actions.

6. Partial Invalidity. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

7. Modification/Termination. This agreement may be modified, amended, or terminated only by the Owner(s) of the Property, after written notice is delivered to (a) the City of Austin, (b) the property owners adjacent to the Property, and (c) the neighborhood association(s) registered with the City of Austin whose boundaries encompass the Property. Such modification, amendment or termination shall not be effective until the expiration of thirty (30) days from delivery of the required notice.

8. Counterparts/Facsimile Signatures. This restrictive covenant may be executed in any number of multiple counterparts which, when taken together, constitute one agreement enforceable against all parties. The delivery of a facsimile of an executed copy of this restrictive covenant will be deemed delivery of an original.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the 29th day of Oct, 2003.

OWNERS:

Fairview Baptist Church of Austin,
a Texas non-profit corporation

By: _____
Charles Long, Registered Agent

Thomas J. O'meara, Jr.

Helen Martha Omeara

Ivan E. and Frances G. Smith, Jr. Revocable
Living Trust

By: Ivan E. Smith Jr.
Ivan E. Smith, Jr.

By: Frances G. Smith
Frances G. Smith

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THE STATE OF TEXAS §
COUNTY OF TRAVIS §
Hays

This instrument was acknowledged before me on this the 29th day of Oct.,
2003, by Ivan E. Smith, Jr., Trustee for the Ivan E. and Frances G. Smith, Jr. Revocable Living Trust.

Barbara Triesch
Notary Public, State of Texas



THE STATE OF TEXAS §
COUNTY OF TRAVIS §
Hays

This instrument was acknowledged before me on this the 29th day of Oct.,
2003, by Frances G. Smith, Trustee for the Ivan E. and Frances G. Smith, Jr. Revocable Living Trust.

Barbara Triesch
Notary Public, State of Texas



After Recording, Please Return to:
Casey Ware, Esq.
Armbrust & Brown, L.L.P.
100 Congress Avenue, Suite 1300
Austin, Texas 78701

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45**SUMMARY STAFF RECOMMENDATION:**

The Staff recommendation is to grant townhouse and condominium – conditional overlay (SF-6-CO) combining district zoning. The Conditional Overlay limits development of the property to 45 units and establishes that a building may not contain more than one unit.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

The townhouse and condominium residence (SF-6) district is intended as an area for moderate density single family, duplex, two-family, townhouse and condominium use.

2. *Zoning changes should promote compatibility with adjacent and nearby uses.*

Staff recommends the Applicant's request, given: the surrounding area includes single family residences, manufactured homes, and multi-family residential uses, and SF-6-CO zoning would be compatible with the established character while further diversifying the housing options available; and 2) it is located in proximity to supporting office, commercial and civic uses.

EXISTING CONDITIONS**Site Characteristics**

The rezoning area is undeveloped and relatively flat. The recorded plat delineates the City of Austin and FEMA 100-year fully developed floodplain within the eastern portion of the property.

Impervious Cover

The maximum impervious cover allowed by SF-6 zoning district is 55%, a consistent figure between the *zoning and watershed* regulations.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

According to flood plain maps, there is a floodplain within the project boundary. Based upon the close proximity of flood plain, offsite drainage should be calculated to determine the exact location of the boundaries. No development is permitted in the Critical Water Quality Zone, while impervious cover is limited to 30% in the Water Quality Transition Zone.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

Transportation

The traffic impact analysis for this site has been waived because a TIA was conducted with zoning case C14-03-0099. The Applicant should comply with all applicable recommendations listed the Staff memo dated 9/3/2003.

Water and Wastewater

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the proposed land use. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

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Site Plan and Compatibility Standards

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

The site is subject to compatibility standards. Along the south property line, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.
- In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.

Additional design regulations will be enforced at the time a site plan is submitted.

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.ci.austin.tx.us/development

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2011-0066

Contact: Wendy Rhoades, (512) 974-7719

Public Hearing: August 2, 2011, Zoning and Platting Commission
August 25, 2011, City Council

FAIRVIEW BAPTIST CHURCH

Your Name (please print)

3606 S. 1st St Austin TX 78745-3108

Your address(es) affected by this application

Marlene Helbert Secretary 7-22-11
Signature Date

Daytime Telephone: 442-1878

Comments: Will not attend
Meeting

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Wendy Rhoades

P. O. Box 1088

Austin, TX 78767-8810

CF 48

CL 49

We believe we have worked through and resolved the open concerns posed by our rezoning proposal and existing plat notes. Since the last ZAP meeting, we've had conversations with staff, ZAP commissioners, and surrounding neighbors. We have also researched the 1994 plat, which is an older plat that we initially did not know existed. We had wrongly assumed the 2008 plat was the only active one and the other conditions we were aware of were covered in restrictive covenants.

Below is a summary of our recent conversations and research. We are now asking for your vote, accompanied by any additional conditions related to the summary below, to help us move forward to achieve the proposed development which to date we have had unanimous support for.

1) 1994 Plat Note Restricting Access to Cynthia Drive and Leisure Lane:

- a. The existing TIA in place was completed assuming this note applies and is a valid TIA for our proposed development if we are not changing this plat note.
- b. Cynthia Drive is currently undeveloped and exists as a fenced in yard. We've spoken with the neighbor who owns the property contiguous to it and his concerns are primarily related to Nancy Drive.
- c. Nancy Drive is more like an alley, it is not a standard residential street. Also, it is right-turn only onto Stassney due to a median on Stassney.
- d. Cynthia/Nancy is therefore not a good candidate for access.
- e. Leisure Run is potentially a better option to connect to.
- f. Leisure Run is improved all the way to our southern property line and by taking it to Sahara Ave which leads to Turtle Creek Blvd a driver could exit the neighborhood onto S. 1st Street at a stop light. The total distance appears to be about 1/5 mile from our property line to the stop light.
- g. However, this would be at odds with the desires of at least a few property owners on Leisure Run and the intent of the plat note.
- h. Our recommendation is to create an emergency only access to Leisure Run, which is supported by the neighbors and within the intent of the plat note.
- i. Whether we provide full access or emergency access to Leisure Run, our proposed site layout does not change; from a design standpoint we are perfectly comfortable with either option. Our concern lies only with the desires of the current Leisure Run neighbors.

2) 1994 Plat Note Restricting Residential Use:

- a. As documented by staff in their updated report after the August 16th ZAP meeting, the intent of this plat note is to denote that the required Park Land Fees have not been paid, which are required under residential use but not commercial use.
- b. The property was zoned for residential at the time this plat note was accepted, which we find to be at odds with the note itself.
- c. The process for Park Land Fee payment has been changed so that it can be paid either during the subdivision process or during a site plan process and therefore this type of plat note is no longer used.
- d. If this plat note needs to be amended it will be much easier to gain the signatures of the other private parties if we have your vote and recommendation to do so.

In summary, we are asking for your help to move our proposed development forward with an official vote and recommendation so that we can carry out any necessary changes or plat amendments prior the ordinance being drafted for City Council's vote.

Regards,

J. Ryan Diepenbrock

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